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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,163	02/13/2004	Gottfried Dichtl	A219 1010.1	5098

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EXAMINER

BUSHEY, CHARLES S

ART UNIT PAPER NUMBER

1724

DATE MAILED: 03/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/777,163

Applicant(s)

DICHTL, GOTTFRIED

Examiner

Scott Bushey

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2005 and 22 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-37 is/are pending in the application.
- 4a) Of the above claim(s) 3-5, 13-16, 23, 27 and 31-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6, 8-12, 17-22, 24-26, 28-30 and 37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2-13-04 & 12-2-04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I, claims 1-6, 8-33, and 37, as well as the election without traverse to prosecute Species A, as depicted by Figs. 1, 1A, 2, and 11 of the application in the reply, filed on August 29, 2005, and in the telephone interview as detailed in the Interview Summary mailed December 22, 2005, is acknowledged. The traversal is on the ground(s) that non-elected, independent claim 34, as amended, now recites that the tray and at least one superstructure are formed of corrosion resistant materials. This is not found persuasive because the subcombination, as recited by independent claim 1 requires that all of the superstructures are formed of corrosion resistant materials. With respect to the claims that applicant has indicated as reading on the elected species, it is clear that claim 32, which depends from non-elected claim 31 should not be included in the elected group of claims. Accordingly, claims 3-5, 13-16, 23, 27, and 31-36 are withdrawn from further consideration, while claims 1, 2, 6, 8-12, 17-22, 24-26, 28-30, and 37 have been examined herein.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 6, 8-12, 17-22, 24-26, 28-30, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Campagnolo et al alone, or in view of any one of Fukuda et al, Kane, Simon et al, and Nakamura et al.

Campagnolo et al (Figs. 1-6; col. 2, lines 10-16; col. 5, lines 12-14, 26-34, 50-68; col. 6, lines 1-17) substantially disclose applicant's invention as recited by instant claims 1, 2, 6, 8-12, 17-22, 24-26, 28-30, and 37, except for the specific recitation that the tray and superstructures are all constructed from corrosion resistant materials. The reference does specifically disclose at least two different types of superstructures (60,62) and a plurality of smaller holes (at 76) equipped with cup and tube means for distributing liquid below the tray in a targeted manner. The reference also discloses (col. 2, lines 10-16) that it is well known within the art to provide surfaces within a column that are subjected to corrosive materials with a corrosion resistant coating, such as glass or Teflon. It should also be noted that the reference teaches a tray (56) with superstructures, but without the additional plurality of smaller holes therein. Clearly, from the entire disclosure of the Campagnolo et al reference, one having ordinary skill in the art would have found it to have been obvious at the time of the invention, to provide all of the internal structures within the column that contact corrosive materials, including the superstructures on the trays, with corrosion resistant materials of construction or corrosion resistant coatings. Furthermore, in view of the teaching by the reference that a given tray that includes passages with superstructures associated therewith, may or may not include a further plurality of holes, it would have been obvious for an artisan at the time of the invention, to either provide a tray without a further plurality of holes or, to

Art Unit: 1724

plug the further plurality of holes that exist in the tray, in the instance that they are not needed, or are not desirable for a given application.

Fukuda et al (col. 2, lines 40-43), Kane (col. 5, lines 31-40), Simon et al (col. 1, lines 5-60; col. 2, lines 25-32), and Nakamura et al (col. 9, lines 3-14) each alternatively disclose that it is well known within the art to provide internal contact surfaces within a column or reaction vessel with corrosion resistant materials of construction or corrosion resistant coatings of the type as recited by applicant's instant claims. In the event that applicant cannot agree that the Campagnolo et al reference alone would render obvious applicant's recitation of corrosion resistant materials or coatings for the trays and superstructures of the instant invention, it would have been obvious for an artisan at the time of the invention, to modify the teachings of the Campagnolo et al reference, to include any of the well known corrosion resistant materials, as taught by any one of the alternative secondary references, as the chosen corrosion resistant material for either the material of the trays and superstructures, or the coatings thereon, since such would provide an apparatus with an extended useful life, without a great deal of additional initial expense.

Conclusion


4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Bushey whose telephone number is 571 272-1153. The examiner can normally be reached on M-Th 6:30-5:00.

Art Unit: 1724

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott Bushey
Primary Examiner
Art Unit 1724


2-28-06

csb
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